**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 5142 OF 2005**

Rafiq Usman Shaikh ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr. Udya P. Warunjikar, Advocate for Applicant

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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**CORAM: SMT. V.K. TAHILRAMANI, J.**

**DATED: 8TH SEPTEMBER, 2005**

**P. C.:-**

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R. No. 11 of 2003 of Bundgarden police station, Pune (Sessions Case No. 169 of 2003).

3. The applicant had earlier preferred an application for bail which came to be rejected by this court by order dated 18.8.2003. The said application of the applicant for bail came to be rejected giving detailed reasons. Thereafter, the applicant referred three applicatins for bail, which also came to be rejected. The last application of

the applicant came to be rejected by this Court by order dated 12.7.2004. While rejecting the application in the said order it was stated that the trial be completed preferably within nine months from the date of the receipt of that order. The learned advocate for the applicant has submitted that the said period of nine months is over however, the trial is not yet completed. Hence, it is prayed that the applicant be released on bail.

4. The learned A.P.P. Mr. Konde Deshmukh, has submitted that the trial has commenced and some witnesses have already been examined. He has further submitted that now only 5 to 6 witnesses remain to be examined. He has further submitted that the trial should be over within a short time and hence, bail may not be granted to the applicant on the ground that the trial is not over.

5. The learned advocate for the applicant has also submitted that the applicant is in custody since January, 2003 and one of the co-accused has been granted bail by this Court by order dated 1.8.2003. I have perused the said order in respect of granting bail to co-accused Munna @ Guddu Maheboob Shaikh, I find that the material in respect of co-accused and the present applicant is not similar, hence, I am not inclined to grant bail on the ground of parity.

6. The applicant is involved in a serious case of dacoity and now only few witnesses remain to be examined, hence, at this stage, I am not inclined to grant bail to the present applicant. Application is rejected.

7. In case the trial is not completed by the end of December, 2005, liberty is granted to the applicant to prefer fresh application for bail.

8. Application is disposed of.

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